

REMARKS

Claim 1 has been amended to include glufosinate in the list of herbicides suitable for use as component b) and to remove the term "Gruppen". Support for this amendment can be found on page 30 of the specification. Claim 2 has been amended to recite proper Markush language. No new matter has been added.

Claims 1-7 have been rejected under 35 USC 103(a) as allegedly being unpatentable over EP 508 126 and WO 96/21652. Applicants respectfully traverse.

The Examiner states "both the references cited above teach combinations of pyrazilinnone compositions of formula I as safeners as presently claimed which embraces Applicant's claimed invention."

Contrary to the Examiner's assertion, compounds of the present invention encompassed by formula I are herbicides and are not taught or reasonably suggested by either of the cited references. Specifically, the compounds encompassed by formula I of the present invention are characterized by (1) the bivalent chain formed by the substituents R₄ and R₅ and (2) the methyl group in the para-position of the phenyl ring. The compounds represented by formula I of the present invention represent a selection from the broader teachings of WO 99/47525, previously cited by the Examiner against the instant application and withdrawn in the outstanding office action. WO 99/47525 corresponds to US 6,410,480.

A primary difference in the compounds of the present invention (as well as the '480 patent) and EP 508 126 (as well as WO 96/21652), is that in the compounds of the present invention, R₄ and R₅ together are a group containing -O-. This is also discussed on page 14 of the present application with respect to the WO 96/21652 reference. In the '480 patent (beginning at column 76, line 51), there is provided a comparison of Compound 1.01, which falls within the scope of formula I of the present application, and the compound closest to Compound 1.01 taught in EP 508 126. This data clearly demonstrate unexpectedly improved results obtained by the compounds encompassed by formula I of the present invention compared to the closest prior art compounds.

WO 96/21652 fails to disclose mixtures of their inventive compounds, which as discussed above are different from the presently claimed herbicides, with co-herbicides at all. On page 32 of the '652 reference, it is taught that the compositions of the reference "can also comprise ... other active substances." No other discussion of co-herbicides is provided. The data clearly demonstrate the unexpectedly improved herbicidal properties obtained by compounds of formula I of the present invention compared to the closest compositions taught in the cited prior art. Accordingly, mixtures of compounds of formula I with a select list of co-herbicides should also be considered unexpected

and non-obvious. The unexpected benefits obtained by mixing herbicides of formula I and the select list of co-herbicides of the present invention are demonstrated in the Examples on pages 39-44 of the present application.

In view of the above amendments and arguments, Applicants respectfully submit that the rejection under 35 U.S.C. 103(a) has been overcome and hereby request that this application be passed to issue.

As this response is submitted within three months from the mailing date of the Office Action, no additional fees are believed necessary.

However, in the event the undersigned is mistaken in his calculations, an appropriate extension of time to respond is respectfully requested, and the Commissioner is authorised to debit the appropriate fee for that extension, or any other fee, from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409
(336) 632-7586



Thomas Hamilton
Attorney for Applicant
Reg. No. 40,464

Date: *November 11, 2003*